

Message Text

LIMITED OFFICIAL USE

PAGE 01 BRASIL 05255 280536Z

43

ACTION EB-07

INFO OCT-01 ARA-06 ISO-00 CAB-02 CIAE-00 COME-00 DODE-00

DOT-00 INR-07 NSAE-00 FAA-00 L-03 H-02 SS-15 NSC-05

PA-01 PRS-01 USIA-06 (ISO) W
----- 114506

R 271300Z JUN 75

FM AMEMBASSY BRASILIA

TO SECSTATE WASHDC 045

INFO AMCONSUL RIO DE JANEIRO

AMCONSUL SAO PAULO

LIMITED OFFICIAL USE BRASILIA 5255

E.O. 11652: N/A

TAGS: EAIR: BR

SUBJECT: CONGONHAS PROBLEM

REF: A. STATE 141899; B. BRASILIA 4924; C. STATE 131611;
D. BRASILIA 4711

1. SUMMARY: FONOFF HAS GIVEN EMBASSY DIPLOMATIC NOTE RESPONDING TO OUR DEMARCHES ON CHANGE OF GAUGE AND CONGONHAS PROBLEMS. NOTE INTERPRETS AIR AGREEMENT PORTION REFERRING TO "CHANGE OF GAUGE" AS MEANING ONLY THROUGH BRAZIL, NOT WITHIN. NOTE ALSO STATES CONGONHAS IS NOT OPEN TO INTERNATIONAL TRAFFIC, WITH OR WITHOUT CHANGE OF GAUGE. NOTE ADDS THAT CONGONHAS IS IN ANY CASE, SLATED TO BE CLOSED SHORTLY TO ALL INTERNATIONAL TRAFFIC. NOTE STATES CATEGORICALLY THAT THERE IS NO VIOLATION OF THE AGREEMENT, AND SUPPORTS ITS ARGUMENT WITH REFERENCE TO THE CHICAGO CONVENTION. END SUMMARY.

2. FOLLOWING IS INFORMAL TRANSLATION OF FOREIGN MINISTRY NOTE:

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 BRASIL 05255 280536Z

THE MINISTRY OF EXTERNAL RELATIONS PRESENTS

ITS COMPLIMENTS TO THE EMBASSY OF THE UNITED STATES OF AMERICA, AND, WITH REFERENCE TO THE DIPLOMATIC NOTE NO.122, OF MARCH 31, 1975, HAS THE HONOR TO PRESENT THE RESPONSE OF BRAZILIAN CIVIL AIR AUTHORITIES CONCERNING THE CASE UNDER REVIEW.

THE COMMISSION ON STUDIES RELATIVE TO INTERNATIONAL AIR NAVIGATION (CERNAI) CONSIDERED THAT THE APPLICATION BY PAN AMERICAN WORLD AIRWAYS TO CHANGE EQUIPMENT FOR THE RIO-SAO PAULO-RIO PORTION OF FOUR OF ITS NEW YORK-GALEAO-CAMPINAS FLIGHTS, INVOLVES TWO FUNDAMENTAL ASPECTS IN THE APPLICATION OF THE AIR AGREEMENT BETWEEN BRAZIL AND THE UNITED STATES OF AMERICA:

- A) THE "CHANGE OF GAUGE" TO OPERATE THE RIO DE JANEIRO-SAO PAULO-RIO DE JANEIRO ROUTE, THAT IS, WITH INITIAL AND FINAL STAGES IN BRAZILIAN TERRITORY; AND
- B) OPERATION IN AND OUT OF CONGONHAS AIRPORT.

WITH RESPECT TO LETTER A) ABOVE, THE AIR TRANSPORT AGREEMENT, SIGNED IN 1946, PERMITS A "CHANGE OF GAUGE" IN THE CASES DESCRIBED BY SECTION VI OF THE ANNEX OF THAT AGREEMENT, BUT THE LANGUAGE OF THAT SECTION VI (AS WELL AS THAT OF OTHER ARTICLES AND SECTIONS OF THE AGREEMENT, INCLUDING THE ROUTE SCHEDULE OF 1946) STATES THAT THE CHANGE OF GAUGE SHOULD TAKE PLACE TO "CARRY PASSENGERS ONWARD" (LEVAR ALEM OS PASSAGEIROS) TO THE TERRITORY OF ONE OF THE SIGNATORIES. THE WORD "ONWARD" (ALEM) MEANS, IN THE AGREEMENT AND IN AIR TRANSPORT TERMS, OPERATION TO ANOTHER COUNTRY. THE LAST PORTION OF THE AFOREMENTIONED SECTION VI AND THE WORD "ONWARD," LINKED TO "THROUGH SERVICES," (SERVICOS ATRAVES) CONFIRM THIS INTERPRETATION. IN ADDITION, PANAM'S INTENTION WOULD IMPLY THAT A FOREIGN AIRCRAFT AND ITS CREW WOULD BE BASED, PERMANENTLY, IN THE TERRITORY OF ONE OF THE SIGNATORIES, SIMPLY AS A CONSEQUENCE OF THE "CHANGE OF GAUGE."

WITH RESPECT TO THE OPERATIONS OF CONGONHAS LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 BRASIL 05255 280536Z

AIRPORT, IT IS, IN GENERAL TERMS, NOT OPEN TO LONG-RANGE TRAFFIC, WHICH REGULATION IS APPLIED NOT ONLY TO UNITED STATES CARRIERS BUT TO ALL OTHERS ALSO. FURTHERMORE, EVEN IF THE REQUEST FOR CHANGE OF GAUGE MADE BY THE AMERICAN COMPANY COULD BE HONORED, A SIMPLE CHANGE OF EQUIPMENT COULD NOT ALTER THE NATURE OF LONG-RANGE INTERNATIONAL SERVICE AS DEFINED IN THE AGREEMENT, AND COULD NOT CHANGE THE INTERMEDIATE

STAGES (ESCALAS) ALREADY IN OPERATION. WITH OR WITHOUT CHANGE OF GAUGE, THUS, THE AIRPORT USED BY PANAM IN SAO PAULO WOULD ALWAYS HAVE TO BE COMPINAS.

FURTHER, THE SITUATION AT CONGONHAS AIRPORT IS SIMILAR TO THAT OF OTHER BRAZILIAN AIRPORTS. IT IS OPEN TO DOMESTIC FLIGHTS, AND SOME REGIONAL FLIGHTS, BUT BECAUSE OF ITS RECOGNIZED LIMITATIONS IN THE MIDDLE OF A CITY THE SIZE OF SAO PAULO, IT CANNOT ACCEPT NEW TRAFFIC. ON THE CONTRARY, CIVIL AIR AUTHORITIES ARE SEEKING A DEFINITIVE SOLUTION TO THE PROBLEM AND INTEND TO SUSPEND ALL INTERNATIONAL TRAFFIC TO THAT AIRPORT, AS SOON AS POSSIBLE.

THUS, THE DECISION BY CERNAI ON THE PANAM REQUEST IS IN CONFORMITY WITH THE AIR AGREEMENT AND DOES NOT CONTAIN ANY DISCRIMINATION PREJUDICIAL TO THE US CARRIER. THE SITUATION BETWEEN THE CARRIERS CANNOT BE COMPARED. THE BRAZILIAN CARRIER IS AUTHORIZED TO OPERATE INTERNATIONAL SERVICES AS WELL AS DOMESTIC SERVICES WITHIN THE ENTIRE NATIONAL TERRITORY. THESE LATTER SERVICES, WITH REFERENCE TO THE PRESENT CASE, OPERATE TO AND FROM CONGONHAS. WHAT IS HAPPENING IS THAT THE INTERNATIONAL SERVICES-- INCLUDING THOSE OF PANAM -- ARE FED BY DOMESTIC CONNECTING SERVICES OPERATED BY BRAZILIAN COMPANIES, THE ONLY ONES AUTHORIZED FOR CABOTAGE, AS ESTABLISHED NOT ONLY BY THE BRAZIL-US AIR AGREEMENT, BUT ALSO BY THE CHICAGO CONVENTION.

FINALLY, THE EQUALITY REFERRED TO IN ARTICLE 15 OF THE CHICAGO CONVENTION, IS SUBJECT TO THE DISPOSITIONS OF ARTICLE 68 OF THE SAME CONVENTION, WHICH LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 04 BRASIL 05255 280536Z

EXPRESSLY GRANTS TO THE STATE THE RIGHT TO DESIGNATE THE ROUTE TO BE FOLLOWED BY ANY INTERNATIONAL AIR SERVICE AND THE AIRPORTS TO BE UTILIZED BY SAID SERVICES. THE STATES AND INTERNATIONAL PRACTICE PERMIT THE SIGNATORIES, WITHIN THEIR TERRITORIES, TO DETERMINE THE USE OF THEIR AIRPORTS, INCLUDING THE TYPES OF SERVICES THAT WILL OPERATE FROM THOSE AIRPORTS (INTERNATIONAL, REGIONAL, DOMESTIC, GENERAL AVIATION, ETC.). END TEXT OF NOTE.
CRIMMINS

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: CIVIL AVIATION, TEXT, DIPLOMATIC NOTES, AVIATION AGREEMENTS, AIR ROUTE APPLICATIONS
Control Number: n/a
Copy: SINGLE
Draft Date: 27 JUN 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: GolinoFR
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975BRASIL05255
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D750225-0242
From: BRASILIA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t1975067/aaaaafpd.tel
Line Count: 164
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 75 STATE 141899, 75 BRASILIA 4924, 75 STATE 131611
Review Action: RELEASED, APPROVED
Review Authority: GolinoFR
Review Comment: n/a
Review Content Flags:
Review Date: 04 SEP 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <04 SEP 2003 by WorrelSW>; APPROVED <03 DEC 2003 by GolinoFR>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
06 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: CONGONHAS PROBLEM
TAGS: EAIR, BR, US, PANAM, CONGONHAS
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006